

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA)
)
)
v.) **CRIMINAL NO. 09-00281-001-CG**
)
TONY LEE MITCHELL,)
)
Defendant.)

ORDER

This matter is before the Court on defendant's Motion for Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(2). (Doc. 89)

Effective November 1, 2014, the United States Sentencing Commission enacted Amendment 782 to the United States Sentencing Guidelines. In general, that Amendment operates to reduce the guideline ranges for drug trafficking offenses. The Commission has deemed this amendment to apply retroactively. See U.S.S.G. § 1B1.10(d). Through his motion, defendant seeks to have the Court apply this modified Guidelines scheme to his sentence. Pursuant to 18 U.S.C. § 3582(c)(2), the Court is empowered to reduce defendant's sentence under these circumstances. See generally United States v. Armstrong, 347 F.3d 905, 909 (11th Cir. 2003) ("amendments claimed in § 3582(c)(2) motions may be retroactively applied solely where expressly listed under § 1B1.10(c).")¹

¹ Section 1B1.10(c) has been renumbered as § 1B1.10(d) by Amendment 782.

After review of the motion and all relevant factors prescribed by § 1B1.10 and Application Note 1(B) to same, the Court has determined that a reduction of sentence based on the amended Guideline range may be appropriate in this case. Defendant's original Guideline range was 63 to 78 months, and the Court imposed a low end sentence of 63 months on Counts 1, 3 and 4, with 60 months consecutive on Count 2. According to the revised Guidelines calculation prepared by the United States Probation Office, defendant's new Guideline range is 51 to 63 months on Counts 1, 3 and 4 after retroactive application of Amendment 782. A comparable low end sentence would therefore be 51 months on those Counts. Unless either party files a written objection on or before December 26, 2014, the Court will enter an order reducing defendant's term of imprisonment to **51 months on Counts 1, 3 and 4, effective November 1, 2015.**

DONE and ORDERED this 26th day of November, 2014.

/s/ Callie V. S. Granade
UNITED STATES DISTRICT JUDGE